

IN RE: THE APPLICATION OF ENERGY FUELS RESOURCES, INC. FOR A  
RADIOACTIVE MATERIALS LICENSE FOR THE PIÑON RIDGE URANIUM MILL

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**MINUTE ORDER, October 14, 2012**

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This Order is intended to address the presently pending pre-hearing Motions filed by Counsel. Having read and considered the various Motions, the Responses and the Replies that have been filed the following conclusions shall govern this proceeding.

Energy Fuels filed two Motions for Extension of Time to produce supplemental materials related to designated experts. The materials have now been produced and the depositions of experts are continuing. The Motions need not be considered further.

Energy Fuels has filed a Motion to reject or deny Sheep Mountain Alliance's reservation of rights to supplement, update or alter its expert disclosures, arguing that the stipulated deadline for disclosures has passed. Sheep Mountain Alliance has filed a Motion to set an addition prehearing conference effectively seeking an extension of time to make disclosures. Each of those parties have raised or discussed timely compliance with the stipulation governing this proceeding in the pleadings they have filed addressing confidentiality of some of the disclosed expert reports. The proceeding is being conducted along a highly compressed time line and there have remained continuing arguments about confidentiality. All counsel have been extraordinarily diligent in their motion practice and there is no reason to assume that they will not continue through the ongoing discovery process as efficiently as possible. The stipulated schedule allows modification of deadlines as necessary. All Motions arguing that counsel have not specifically met the time lines in the stipulated schedule are now denied but may be renewed when accompanied by a specific argument that a particular delayed disclosure has prejudiced a party's participation in the hearing.

In providing exhibits relied upon by its expert witnesses Energy Fuels designated five reports (two cultural inventories and three engineering design) as confidential pursuant to the protective Order previously entered in this proceeding. Sheep Mountain Alliance has filed a Motion to Compel urging that the designation of confidentiality is inadequately justified and asking that an order be entered waiving that designation or, alternately, that Energy Fuels should be required to produce a redacted copy of the reports and specific justification for those continuing claims of confidentiality for the redacted portions. Energy Fuels has, in turn, filed a Motion to Maintain the confidentiality designation for its expert reports arguing that Sheep Mountain Alliance has failed, under the protective order, to adequately state its objections to confidentiality. Energy Fuels has additionally filed a Motion to Seal the designated confidential reports to the extent they have been submitted into the record of this proceeding.

The conduct of Energy Fuels does not constitute a waiver of confidentiality nor does it support the imposition of waiver of confidentiality as a sanction. It appears from the arguments

filed that redacted copies of the cultural reports sought by Sheep Mountain Alliance have now been provided but the engineering design reports remain designated as confidential in their entirety.

The full content of the reports designated as confidential have, in fact, been made available to the entities and individuals with party designation and, as confirmed during the pre-hearing conference held on October 5, 2012, can be shared as necessary by counsel for preparation for the hearing subject to the terms of the protective order earlier entered.

An additional issue remains in the use of the reports designated as confidential during the public examination of witnesses or arguments of counsel and the parties. When anticipating the use of those reports in an examination of a particular witness or an argument Counsel shall disclose that intent and be prepared, in an in-camera discussion, to make an offer of proof as to the specific portion of the designated report to be discussed. The hearing officer can then hear arguments about specific information from a report and fashion a ruling to the specific situation preserving, so far as possible, both the right of public access to this process and the designation of confidentiality.

Entered in Naturita, Colorado this 14 day of October, 2012.

s/ Richard W. Dana  
Richard W. Dana  
Appointed Hearing Officer

#### CERTIFICATE OF SERVICE

On October \_\_\_, 2012 a copy of this MINUTE ORDER, October 14, 2012, was transmitted by electronic mail to the following Counsel and individuals with party status in this proceeding:

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#### CERTIFICATE OF SERVICE

On October \_\_\_\_, 2012 a copy of this MINUTE ORDER, October 14, 2012, was transmitted by electronic mail to the following members of the public who have requested notice in this proceeding:

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